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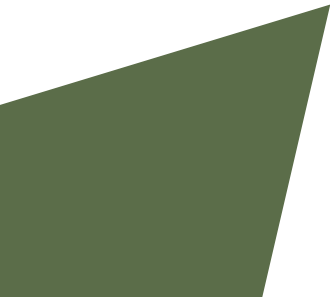
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**Criminalization of Triple Talaq**

Mohammad Zahid

## INTRODUCTION

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In the year 2019 Government took down Triple Talaq or Talaq E Biddah as a way of divorcing wife among Muslims. In which a Muslim man pronounces Talaq 3 times during a single sentence. This was a 1400 year old custom which was followed up till here. Muslim law was more advance than other, it gave women rights to own a property and get in to a contract where In Britain in the year 1922 women's got right to own a property. Muslim also recognized the right to education to women, they also built universities so their girl child can get education it was usually arts.

The source of Muslim law are Holy Quran & Sunnah, Sunnah means teachings which were given by the Prophet Muhammad [pbuh] From 1985-2019. 3,82,964 cases of instant divorce was registered from 1985-2019 were as after implementation of the law only 1082 cases of instant divorce have been registered, which is a good outcome of the law.

Talaq E Biddah was discouraged by the Prophet, *he said it is the worst kind of practice, he never acted upon this Idea of Divorce.* He said out of rage and anger man can pronounce Talaq thrice, which will lead to separation and this will affect both man and women. This will affect in nourishment of their child, and once these words are said it cannot be revoked unlike other way of divorcing, Talaq-Ul-sunnah. There are other ways of divorcing too Talaq-Ul-Sunnah, Talaq-e-Tawez.

This law is passed with the outcome of the Shaira Bano case, she was a victim of Triple Talaq or Talaq E Biddah. In India bill is passed where if a Muslim man perform Talaq E Biddah, the marriage will not dissolve. This is a great move made by Government by stopping this arbitrary power which was given to Muslim husband. It was a kind of extra judicial act, because of this many women's got deserted. Here the husband is getting punished, if he pronounces Triple Talaq and the marriage is not getting dissolved, here the marriage is getting saved.

In this piece of work, we will discuss about the history of triple talaq and the validity of triple talaq in the religion of Islam. The discussion of why triple talaq is criminalized, and what will be the consequences of the penalizing of this and what impact it will give in the society. We will also discuss about the stand of Islamic countries on the topic of triple talaq.

## WHAT IS CRIME?

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An omission or act prohibited and punished by law. Criminal sanction is an effective way to control the human behavior and to maintain stability in society. A breach of a contract is a private wrong which is also called personal right or right in personam, liquidated damages are provided for it. And where there is a violation of general legal right which is known as right in

rem, un liquidated damages are provided and compensation is fixed by court. State can intervene if a person is harming another, but all harm cannot be called crime. The harm needs to be real and unavoidable, then it can be called “criminal act”. So for pronouncing triple talaq to his wife will attract criminal charges. Husband has to pay 15 lac or will be prisoned for 3 years.

### **OUTCOME OF THIS PROVISION**

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Now because of the fear of penal provision men’s will not abandon their wife. With the new data it is clear that the mindset of the people of the society has been changed. If the couple wants to separate their path or divorce their spouse there are many other means and grounds which both the parties had powers but here only muslim man had the power which was arbitrary.

This law has done justice to the Muslim women because there are a lot of Muslim women who are suffering from this particular act of their husband and till then there was no remedy to it but today there is an outcome for this. The government of india should had added that the husband should give 200 times penalty of the meher. (Meher is an obligatory form of money given to bride to groom at the time of marriage) to the women if he pronounces triple talaq. So women also get some benefit. They should have pressurized him financially, if he did not pay that fine then they should had Jailed him. This would had become more efficient form of provision, thus this criminalization of triple talaq is a justice.

In some sects of Muslim law giving triple talaq is only counts one talaq. So the court should had cleared the confusion what about this particular sect how recognize triple talaq as only one talaq. If not this then they could have made the pronouncement of the triple talaq by verbal or gestural format will constitute as only one divorce. As the government said that triple talaq is not recognized in the other Islamic countries so it should also be stopped in India, but not in every Islamic nation the pronouncement of it has no punishment attraction to the pronouncement some only attract it.

### **WHAT IS THE SITUATION IN ISLAMIC COUNTRIES?**

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In major Islamic or Muslim majority countries, domestic law does not recognizes Triple Talaq as a valid way of divorce. They treat the three pronouncement of the word talaq as single declaration. Many surveys had been conducted which showed that Islamic world has realized that has no source or has no link to the teaching of Islam.



Egypt- Article 356 of law no. 25 (1929) provides that the pronouncement of triple talaq will be considered as one. There is no criminal action on it.

Iraq- Article 37(2) of law No. 188 (1959) states that, three verbal pronouncement or gestural repudiations pronouncement at once will constitute as only one divorce.

Sudan- Section 360 of Sudanese Manshur-i-Qadir al- qudat says, the pronouncement of triple talaq shall be considering the same.

UAE, Qatar, Baharian- although these countries are said to be orthodox, they have choose same measures under their personal law statues.

Section 103(1) OF Qanun al-Ahwal al- shakhisya of UAE

Section 108 of Qanun al-Usrah of Qatar (2006)

Section (88) of Law No. 19 of regarding Qanun al-Usrah of Bahrain 2009.